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Coordination on Criminal Environmental Enforcement Actions

Office of Counsel

29 May 1996

MEMORANDUM FOR DIVISION AND DISTRICT OFFICES OF COUNSEL

SUBJECT: Coordination on Criminal Environmental Enforcement Actions

1. The Procedures implementing the Corps Regulatory Enforcement Program are found at 33 C.F.R 326 et al. Section 326.5(d) sets forth the circumstances when an enforcement action should be referred to the Office of the Chief of Engineers, ATTN: CECC-K. Section 326.5(d)(1) specifically applies that requirement to those situations that are significant precedential or controversial questions of law or fact.
2. There is no specific requirement that criminal enforcement cases be elevated to this office. However, because of the unusual nature of criminal actions, their potential for controversy, and the heightened scrutiny they receive, this type of case appears to fit the criteria highlighted above.
3. Accordingly, until this memorandum is revoked or modified, all referrals by the Corps of Engineers to the Department of Justice seeking criminal enforcement of environmental statutes shall be forwarded through Division offices to CECC-K pursuant to 33 C.F.R. 326.5(d)(1). For those cases referred by EPA or others to the Department of Justice, or initiated by the Department of Justice itself, the District should send a notice, describing the facts of the case as we know them, through the Division office to DAEN-CCK when it learns about the action.

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For Litigation

Editor's Note: paragraph 3 of this document originally specified that referrals and notification should be sent to DAEN-CCK (which is consistent with the current 33 CFR 326). However, by memo dated 30 May, Martin Cohen advised that this address should be changed to CECC-K.

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